HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No. 14299 of 2007

Date 7-9-2007

Between:
The Government of Andhra Pradesh
Rep. By its Principal Secretary, Finance Dept.,
Secretariat, Hyderabad and others.

…….PETITIONER

AND

B. Eranna, Senior Accountant, Sub-Treasury,
Dhone and others.

……..RESPONDENTS

THE HON'BLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HON'BLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No.14299 of 2007

ORDER: (per Smt. T.Meena Kumari,J)

The petitioner-Department filed the present writ petition seeking a writ of Certiorari to call for the records relating to O.A. No. 464 of 2007,dated 3.4.2007 and to quash the same.

The respondent herein was working as Senior Accountant with the petitioner-Department. While so, he was dismissed from service on the ground that he was convicted by the Additional Special Judge for SPE and ACB Cases-cum-V Additional Chief Judge, Hyderabad through his judgment dated 20.10.2000 in C.C. No. 9 of 1995. On an appeal being preferred by the respondent against the said conviction and sentence, this Court allowed the said appeal and acquitted the respondent of the charge levelled against him. However, when the authorities have not reinstated the respondent into service, the respondent filed O.A. No. 7275 of 2006 before the A.P. Administrative Tribunal seeking a direction

to the authorities to reinstate the applicant into service and treat the period of suspension and dismissal as “on duty”. The Tribunal passed interim order in the said O.A. on 5.12.2006 directing the department to reinstate the respondent into service. Thereafter, the Government passed order on 27.12.2006 refusing to reinstate the respondent into service. Aggrieved, the respondent preferred O.A. No. 464 of 2007. The Tribunal, by the order impugned in this writ petition dated 3.4.2007 clubbed and disposed of both the O.As., namely, O.A.Nos. 464 of 2007 and 7275 of 2006 by a common order. While allowing the O.As., the Tribunal directed the departmental authorities to reinstate the respondent into service and to pay him the back wages within a period of one week from the date of receipt of a copy of this order. It further directed the authorities to pass necessary orders under F.R. 54 and 54-B treating the period of suspension and dismissal as on duty. Aggrieved by the same, the department filed the present writ petition.

Learned Government Pleader for Services-II submits that against the order of acquittal passed by this court in the Criminal appeal, the Government has preferred S.L.P. before the Supreme Court and the Supreme Court issued notice to the respondent in the said S.L.P. He further submits that when the appeal preferred by the department against the judgment rendered by this Court in the Criminal Appeal is pending before the Supreme Court, the Tribunal ought not to have directed the

department to reinstate the respondent into service. He, therefore, prayed that the writ petition be allowed and the impugned order be set aside.

On the other hand, learned counsel for the respondent supported the impugned order and prayed that the writ petition be dismissed.

There is no dispute about the fact that the respondent was dismissed from service after he was convicted by the Special Judge for SPE and ACB cases. However, when the conviction recorded by the learned Special Judge against the respondent has been set aside by this Court in a Criminal Appeal, the dismissal order ceases to exist and the respondent is entitled to be reinstated into service. In the instant case, the authorities failed to take note of the fact that the conviction passed against the respondent has been set aside by this Court through its judgment rendered in Criminal Appeal No. 1589 of 2000, dated 17.11.2005. Further, mere filing of an SLP before the Supreme Court would not disentitle the respondent from being reinstated into service. That apart, even according to the learned Government Pleader, as on today, the Supreme Court has not passed any orders staying the judgment rendered by this Court in the aforesaid criminal appeal. The Tribunal, therefore, taking all these aspects into consideration, has rightly allowed the O.As.

In the circumstances, we do not find any reason to interfere with

the order of the Tribunal. The writ petition fails and the same is accordingly dismissed.

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(T. MEENA KUMARI,J)

Date:7th September,2007

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(G. CHANDRAIAH,J)

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